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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION**

**UNITED STATES OF AMERICA,**

**Case No.: 3:15-CR-00438-JO**

**Plaintiff,**

**GOVERNMENT'S REPONSE TO  
DEFENDANT'S MOTION TO  
DISMISS AND OTHER PLEADINGS**

**v.**

**WINSTON SHROUT,**

**Defendant.**

The United States of America, by and through Billy J. Williams, United States Attorney for the District of Oregon, and Stuart A. Wexler and Ryan R. Raybould, Trial Attorneys, Tax Division, hereby respectfully requests that the defendant's "Motion to Dismiss for Treaty Violation and Treason Against Constitution Art. VI and Notice of Same to US Army Provost Marshall" (Doc. 31) be denied. The Government further moves to strike the defendant's pleadings entitled "Notice of Default of Plea in Bar and Demand for Written Bill of Particulars

True Bill in Commerce of Necessity” (Doc. 32) and “Notice of Filing of IRS Form 1099A ON Case No. 3:15-cr-00438-JO.” (Doc. 33.)

### **BACKGROUND**

On March 15, 2016, the Grand Jury returned a Superseding Indictment against Defendant Winston Shrout in this case, charging him with 13 felony violations of 18 U.S.C. § 514 for making, presenting, and transmitting fictitious obligations, and six misdemeanor violations of 26 U.S.C. § 7203 for willfully failing to file income tax returns. (Doc. 17.) The defendant was arraigned on the superseding charges on March 31, 2016. At arraignment, the defendant waived his Sixth Amendment right to counsel and chose to represent himself in this matter; the Court appointed Assistant Federal Public Defender Ruben Iniguez as standby counsel.

The defendant has previously filed a number of pleadings to the docket in this case. *See* Docs. 9, 10, 13, & 23. In each instance, the Court has stated variously that the pleadings either had “no legal consequence,” were “nonsense” or were “legally meaningless.”

On April 18, 2016, the defendant filed to the docket his latest round of pleadings. Document 31 is styled as a “Motion to Dismiss for Treaty Violation and Treason Against Constitution Art. VI and Notice of Same to US Army Provost Marshall,” accompanied by a “Memorandum for Motion to Dismiss for Treaty Violation and Treason Against Constitution Art. VI and Notice of Same to US Army Provost Marshal.” Document 32 is termed by the defendant as a “Notice of Default of Plea in Bar and Demand for Written Bill of Particulars True Bill in Commerce of Necessity.” Document 33 is termed by the defendant as a “Notice of Filing of IRS Form 1099A On Case No. 3:15-cr-00438-JO.”

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## LAW AND ARGUMENT

### **1. The Defendant’s “Motion to Dismiss for Treaty Violation And Treason Against Constitution Art. VI and Notice of Same to US Army Provost Marshal” is Frivolous and Without Legal Merit**

The substance of defendant Shrout’s filing identified on the docket as a “Motion to Dismiss for Treaty Violation And Treason Against Constitution Art. VI and Notice of Same to US Army Provost Marshal” (Doc. 31) is replete with classic tax defier nonsense and frivolous arguments. A “claim is legally frivolous when it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). This Court can dismiss or deny a claim as frivolous “where it is based on an indisputable meritless legal theory or where the factual contentions are clearly baseless. *Id.* at 327.

Here, the defendant appears to claim that the government attorneys are committing treason by prosecuting this case, and that he has suffered some theft of his person. These accusations have no factual or legal merit. The entire pleading can fairly be classified as nonsensical and arbitrary legalese. Accordingly, the United States requests that the Court deny defendant’s motion.

### **2. Documents 32 & 33 should be stricken from the Court’s record**

Defendant’s submissions to the Court contained in Documents 32 and 33 should be stricken from the record. Federal Rule of Criminal Procedure 47(b) requires that a “motion . . . state the ground on which it is based and the relief or order sought.” Document 32, styled as “Notice of Default of Plea in Bar and Demand for Written Bill of Particulars True Bill in Commerce of Necessity” and Doc. 33, styled as “Notice of Filing of IRS Form 1099A on Case No. 3:15-cr-00438,” are not motions, as they do not request any sort of relief. *See* Fed. R. Crim. P. 47(b).

Document 32 is termed as a “notice of default,” but doesn’t actually request the Court to do anything;<sup>1</sup> Doc. 33 is a 2016 tax form filed on the Court’s docket. To the extent that Document 32 purports to trigger default provisions in defendant’s prior filing, the document is arguably a threat against Court officers and federal government attorneys. *See* Doc. 23 at 10 (“The surety for failure of Officers of the USDC/DOJ Attorneys, et. Al. to settle this True Bill in Commerce is, but not limited to: . . . the private possessions of Officers of the USDC/DOJ Attorneys who are all benefitting from this action under “benefit of office” [*sic*] are to be seized to satisfy the True Bill.”) Accordingly, Documents 32 and 33 should be stricken from the record.

### CONCLUSION

Accordingly, for the reasons stated, the defendant’s pleading contained in Doc. 31 should be summarily denied as a frivolous pleading that is legally meaningless. Additionally, defendant’s submissions contained in Documents 32 and 33 should be stricken from the record.

Dated this 19th day of April, 2016.

Respectfully submitted,

BILLY J. WILLIAMS  
United States Attorney

/s/ Stuart A. Wexler  
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<sup>1</sup> The defendant’s “notice” also either dismisses out of hand the Court’s April 5 Order or denies its existence. *See* Doc. 32 at 1 (“Judge Jones prejudiced this cause of action on 31 March 2016 saying that it was of no effect (or words to that effect) although no orders were issued to disallow said plea.”)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 19, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record for the defendant. Additionally, a copy of the foregoing was emailed to the defendant at millieannjones@gmail.com.

*/s/ Stuart A. Wexler*

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STUART A. WEXLER  
Trial Attorney, Tax Division